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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,005	08/07/2001	Stephen Lange Ranzini	11004.0003-00000	1961
22852	7590	11/10/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER COLBERT, ELLA	
			ART UNIT	PAPER NUMBER
			3696	
			MAIL DATE	DELIVERY MODE
			11/10/2009 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/924,005

**Applicant(s)**

RANZINI, STEPHEN LANGE

**Examiner**

Ella Colbert

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 5-8 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-8 and 12-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1, 3, 5-8, and 12-23 are pending. Claim 3 has been amended in this communication filed 7/22/09 entered as Response After Non-Final Action and Request for Extension of Time.
2. The Interview Summary has been entered 07/13/09.
3. The 35 USC 112, First Paragraph Rejection for claims 1 and 3 is hereby withdrawn in view of Applicant's convincing arguments.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 2001/0025265) Takayasu in view of (US 2002/0087454) Calo et al, hereafter Calo.

Claim 1, Takayasu discloses, A system to handle exchange of a foreign currency, comprising:

A memory having program code stored therein (col. 1, pg. 10 [0150]); and a processor operatively connected to said memory for carrying out instructions in accordance with said stored program code (col. 1, pg. 10 [0151]), wherein said program code, when executed by said processor, causes said processor to perform (col. 1, pg. 10 [0154]). Takayasu failed to disclose, establishing the foreign currency as a stock on a stock exchange, wherein the stock comprises a number of units of the foreign currency offered for trade in terms of a native currency of the stock exchange; presenting on the stock exchange, using quotation of the stock exchange, the stock; establishing a predetermined number of market makers, having responsibility for the stock, wherein one or more of the requests are passed to one or more of the market makers.

Calo discloses, establishing the foreign currency as a stock on a stock exchange, wherein the stock comprises a number of units of the foreign currency offered for trade in terms of a native currency of the stock exchange (col. 2, pg. 2 [0030] – pg. 3, col. 1, line 47); presenting on the stock exchange, using quotation of the stock exchange, the stock (Pg. 3, col. 2 [0034]-pg. 4, line33); and establishing a predetermined number of market makers, having responsibility for the stock, wherein one or more of the requests are passed to one or more of the market makers (Pg. 4, col. 1 [0035]col. 2 [0037] and Pg. 6, col. 1 [0044]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Calo in Takayasu because such an incorporation would allow Takayasu to give principal market maker

quotes with having the use of a human market maker in a trading environment which is well known.

Claim 3, Calo discloses, A system to handle exchange of a foreign currency, comprising: establishing the foreign currency as a stock on a stock exchange, wherein the stock comprises a number of units of the foreign currency offered for trade in terms of a currency different than the foreign currency (col. 2, pg. 2, para. 0030-pg. 3, col. 1, line 47). .

Independent claim 3 is rejected for the similar rationale as given above for claim 1.

Claims 5-8 and 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 2001/0025265) Takayasu in view of (US 2002/0087454) Calo et al, hereafter Calo and further in view of (US 2002/0087455) Tsagarakis et al, hereafter Tsagarakis. This application claims priority to a non-provisional of provisional application No. 60/259,268, filed on December 30, 2000.

Claims 5 and 7, Takayasu and Calo failed to disclose, wherein said responsibility includes posting a bid and offer for said stock, Tsagarakis discloses, wherein said responsibility includes posting a bid and offer for said stock (Page 5, col. 1 [0041] –col. 2, line 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Tsagarakis in Takayasu because such an incorporation would allow Takayasu to simplify the cross-border trading of stocks, options, mutual funds, and fixed income instruments.

Claims 6 and 8, Takayasu and Calo failed to disclose, wherein said responsibility includes offering to purchase or sell said stock for posted amounts. Tsagarakis discloses, wherein said responsibility includes offering to purchase or sell said stock for posted amounts (Page 4, col. 1 [0036]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Tsagarakis in Takayasu because such an incorporation would allow Takayasu to convert currency, an order to buy or sell an amount of a first currency in exchange for a second currency and to decrease the transaction costs of each trade.

Claims 12 and 18. Takayasu discloses, The system of claim 1, wherein the stock comprises a number of units of Japanese Yen offered for trade in terms of United States Dollar (para. [0013]- para. [0017]).

Claims 13 and 19. Takayasu and Calo fail to disclose, The system of claim 12, wherein the stock is given a name USJP. This stock name is not found on the Internet or in any of the databases that are accessible to the USPTO. Therefore, this stock name is not considered to exist except in Applicants' Specification. Furthermore, the stock name is considered nonfunctional descriptive claim language. MPEP 2106.01 recites "Descriptive material can be characterized as either "functional descriptive material" or nonfunctional descriptive material." "Functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New

IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5<sup>th</sup> ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data. Therefore, this claim limitation is given very little weight and is considered a design option (choice).

Claims 14 and 20. Takayasu discloses, The system of claim 1, wherein the stock comprises a number of units of Euro offered for trade in terms of United States Dollar ([0117]).

Claims 15 and 21. Takayasu and Calo fail to disclose The system of claim 14, wherein the stock is given a name USEU. This stock name is not found on the Internet or in any of the databases that are accessible to the USPTO. Therefore, this stock name is not considered to exist except in Applicants' Specification. Furthermore, the stock name is considered nonfunctional descriptive claim language. MPEP 2106.01 recites "Descriptive material can be characterized as either "functional descriptive material" or nonfunctional descriptive material." "Functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5<sup>th</sup> ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data. Therefore, this claim limitation is given very little weight and is considered a design option (choice).

Claim 16 and 22. Takayasu and Calo fail to disclose The system of claim 1, wherein the stock comprises a number of units of Canadian Dollar offered for trade in terms of United States Dollar. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Takayasu and Calo to have a Canadian Dollar for trade in terms of United States Dollar because Takayasu can trade the Japanese Yen and the Euro which means his system is capable of trading the Canadian Dollar.

Claim 17 and 23. Takayasu and Calo fail to disclose The system of claim 16, wherein the stock is given a name USCA. This stock name is not found on the Internet or in any of the databases that are accessible to the USPTO. Therefore, this stock name is not considered to exist except in Applicants' Specification. Furthermore, the stock name is considered nonfunctional descriptive claim language. MPEP 2106.01 recites "Descriptive material can be characterized as either "functional descriptive material" or nonfunctional descriptive material." "Functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5<sup>th</sup> ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data. Therefore, this claim limitation is given very little weight and is considered a design option (choice).



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If this stock trading names do really exist, the Applicants' are respectfully requested to provide a copy of the source(s) which they are found.

***Response to Arguments***

Applicant's arguments filed 07/22/09 have been fully considered but they are not persuasive.

Applicant argues: Calo does not disclose or suggest "establishing the foreign currency as a stock on a stock exchange, wherein the stock comprises a number of units of the foreign currency offered for trade in terms of a currency different than the foreign currency has been considered but is not persuasive.

Response: Calo discusses on pg. 2, para 0026 a Global hub where a customer in a first country with a local affiliate can purchase or sell a stock or financial instrument that is traded on an exchange in a second country. A financial instrument is interpreted as being a currency that can be traded on a Global hub that interfaces with a Foreign Exchange (FX). Page 4, para. 0036. However, it is unclear what establishing a foreign currency as a stock on a stock exchange entails from reading the Specification. Is the foreign currency established on a stock exchange as discussed in the NPL Reference by Pasmantier, Anita B. entitled "Currency Options: From Inception to Present" on page 3, para. 4-Page 4, para. 5 and Page 5, para. 1 and para. 4? However, it is well-known that a currency has units of a foreign currency when being traded on a stock exchange.

"Claims in a pending application should be given their broadest possible interpretation". In re Pearson, 181 USPQ 641 (CCPA 1974).

"An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed ...". In *re* Zletz 13 USPQ2d 1320 (Fed. Cir. 1989).

"We are not persuaded by any sound reason why, at any time before the patent is granted, an applicant should have limitations of the specification read into a claim where no express statement of the limitation is included in the claim ... However, this court has consistently taken the tack that claims yet unpatented are to be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application since the applicant may then amend his claims, the thought being to reduce the possibility that, after the patent is granted, the claims may be interpreted as giving broader coverage than is justified." *In re Prater*, 162 USPQ 541 (CCPA 1969).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicants' Representative is respectfully requested to telephone the Examiner to schedule an interview to discuss the outstanding issues in this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Trammell James can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ella Colbert/

Primary Examiner, Art Unit 3696

November 9, 2009